

Title: Code of Conduct and Conflict of Interest	Number: 2.5	Page 1 of 6
	Related Procedure? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Legal Citation (if Applicable) C.R.S. § 24-18-102, 104, 109, 110, 201, 202, C.R.S. § 18-8-308.	Board Approval/Revision: 19 February 2014	

The Trustees of Colorado Mountain College are committed to serve the College with integrity. The Trustees are elected officials responsible for fulfilling their fiduciary duty to the Colorado Mountain College District and safeguarding the public trust. In keeping with those responsibilities, the Trustees have adopted certain provisions of the Colorado Code of Ethics that apply to local government officials. Trustees are also subject to the College Code of Ethics, Board Policy 3.1.

1. Breach of Fiduciary Duty and Violation of Public Trust

- 1.1 Disclosure or use of confidential information for personal benefit. A CMC Trustee shall not disclose or use confidential information acquired in the course of his or her official duties in order to further substantially his or her personal financial interests.¹

For this policy, “financial interest” is a “substantial interest” held by an individual that is:

- 1.1.1 An ownership interest in a business.
- 1.1.2 A creditor interest in an insolvent business.
- 1.1.3 An employment or prospective employment for which negotiations have begun.
- 1.1.4 An ownership interest in real or personal property.
- 1.1.5 A loan or any other debtor interest.
- 1.1.6 A directorship or officership in a business.²

- 1.2 Accepting substantial gifts or economic benefits. A CMC Trustee shall not accept a gift of substantial value or a substantial economic benefit tantamount to a gift of substantial value:

- 1.2.1 Which would tend improperly to influence a reasonable person in his or her position to depart from the faithful and impartial discharge of public duties.
- 1.2.2 Which he or she knows a reasonable person in his or her position should know under the circumstances is primarily for the purpose of rewarding him or her for official action he or she has taken.³

¹ C.R.S. § 24-18-104(1)(a)

² C.R.S. § 24-18-102(4)

³ C.R.S. § 24-18-104(1)(b)

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For this policy, “an economic benefit tantamount to a gift of substantial value” is a loan at a rate of interest substantially lower than the commercial rate than currently prevalent for similar loans and compensation received for private services rendered at a rate substantially exceeding the fair market value of such services.⁴

Exceptions:

The following are not gifts of substantial value or gifts of substantial economic benefit tantamount to gifts of substantial value for purposes of this policy:

- Campaign contributions and contributions in kind reported as required by C.R.S. § 1-45-108.
- An unsolicited item of trivial value.
- A gift with a fair market value of fifty-three (53) dollars or less that is given to the public officer, member of the general assembly, local government official, or employee by a person other than a professional lobbyist.
- An unsolicited token or award of appreciation as described in section 3 (3) (c) of article XXIX of the state constitution.
- Unsolicited informational material, publications, or subscriptions related to the performance of official duties on the part of the CMC Trustee.
- Payment of or reimbursement for reasonable expenses paid by a nonprofit organization or state and local government in connection with attendance at a convention, fact-finding mission, or trip, or other meeting as permitted in accordance with the provisions of section 3 (3) (f) of article XXIX of the state constitution.
- Payment of or reimbursement for admission to, and the cost of food or beverages consumed at, a reception, meal, or meeting that may be accepted or received in accordance with the provisions of section 3 (3) (e) of article XXIX of the state constitution.

⁴ C.R.S. § 24-18-104(2)

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- A gift given by an individual who is a relative or personal friend of the CMC Trustee on a special occasion.
- Payment for speeches, appearances, or publications that may be accepted or received by the CMC Trustee in accordance with the provisions of section 3 of article XXIX of the state constitution that are reported pursuant to C.R.S. § 24-6-203(3) (d).
- Payment of salary from employment.
- A component of the compensation paid or other incentive given to the CMC Trustee in the normal course of employment.
- Any other gift or thing of value a CMC Trustee is permitted to solicit, accept, or receive in accordance with the provisions of section 3 of article XXIX of the state constitution, the acceptance of which is not otherwise prohibited by law.⁵

1.3 Private substantial financial transactions with a person whom he or she inspects or supervises. A CMC Trustee shall not engage in a substantial financial transaction for his or her private business purposes with a person whom he or she inspects or supervises in the course of his or her official duties.⁶

1.4 Official act benefitting business or client. A CMC Trustee shall not perform an official act directly and substantially benefitting a business economically or other undertaking in which he or she either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent.⁷

1.5 Accept goods or services offered by a person providing goods or services to CMC. A CMC Trustee shall not accept goods or services for his or her own personal benefit offered by a person who is at the same time providing goods or services to the local government for which the official or employee serves, under a contract or other means by which the person receives payment or other compensation from CMC unless the totality of the circumstances indicates that the transaction is legitimate, the terms are fair to both parties, the transaction is supported by full and adequate consideration, and the CMC Trustee does not receive any substantial

⁵ C.R.S. § 24-18-104(3)

⁶ C.R.S. § 24-18-109(2)(b)

⁷ C.R.S. § 24-18-109(2)(b)

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benefit resulting from his or her official or governmental status that is unavailable to members of the public generally.⁸

1.6 Requirement to disclose a personal or private interest in a matter pending before the Board. A CMC Trustee who has a personal or private interest in any matter proposed or pending before the Board shall disclose such interest to the Board and shall not vote thereon and shall refrain from attempting to influence the decisions of the other members of the Board in voting on the matter.⁹

Exceptions:

- A CMC Trustee may vote if his or her participation is necessary to obtain a quorum or otherwise enable the Board to act and if he or she complies with the voluntary disclosure procedures below.
- A CMC Trustee may, prior to acting in a manner that may impinge on his or her fiduciary duty and the public trust, disclose the nature of his or her private interest in writing to the Secretary of State, listing the amount of his financial interest, if any, the purpose and duration of services rendered, if any, and the compensation received for the services or such other information as is necessary to describe his interest. If he or she then performs the official act involved, he or she shall state for the record the fact and summary nature of the interest disclosed at the time of performing the act.¹⁰

2. Prohibited Interests in Contracts

2.1 A CMC Trustee shall not be interested in any contract made by him or her in his or her official capacity or by the Board. A former employee may not, within six months following the termination of his or her employment, contract or be employed by an employer who contracts with a state agency or any local government involving matters with which he or she was directly involved during his or her employment.¹¹

Exceptions:

- "Be interested in" does not include holding a minority interest in a corporation.

⁸ C.R.S. § 24-18-109(2)(c)

⁹ C.R.S. § 24-18-109(3)

¹⁰ C.R.S. § 24-18-110

¹¹ C.R.S. § 24-18-201

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- "Contract" does not include:
 - a. Contracts awarded to the lowest responsible bidder based on competitive bidding procedures.
 - b. Merchandise sold to the highest bidder at public auctions.
 - c. Investments or deposits in financial institutions that are in the business of loaning or receiving moneys.
 - d. A contract with an interested party if, because of geographic restrictions, the Board could not otherwise reasonably afford itself of the subject of the contract.
 - e. A contract with respect to which the CMC Trustee has disclosed a personal interest and has not voted thereon or with respect to which any member of the Board has disclosed the personal or private interest to the Board in accordance with Policy 1-F.¹²

2.2 CMC Trustees shall not be purchasers at any sale or vendors at any purchase made by them in their official capacity.¹³

3. Mandatory Disclosure to the Secretary of State to Avoid Criminal Liability

3.1 Prior to exercising any substantial discretionary function in connection with a government contract, purchase, payment, or other pecuniary transaction, a CMC Trustee shall give seventy-two (72) hours' actual advance written notice to the Secretary of State and to the Board of the existence of a known potential conflicting interest in the transaction with reference to which he or she is about to act in his or her official capacity.

A "potential conflicting interest" exists when the public servant is a director, president, general manager, or similar executive officer or owns or controls directly or indirectly a substantial interest in any nongovernmental entity participating in the transaction.¹⁴

¹² C.R.S. § 24-18-201(1)

¹³ C.R.S. § 24-18-202

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4. Board Procedure for Addressing Potential Failure to Comply with Code of Ethics

4.1 If any member of the Board of Trustees believes that another Trustee is not in compliance with this Code of Ethics, then the following procedure shall apply:

- 4.1.1 The Board member raising the concern shall notify the Board President of the potential non-compliance. If the Trustee suspected of non-compliance is the Board President, then the Board Secretary shall be notified.
- 4.1.2 The Trustee in question and the Board President acting as the representative of the Board shall discuss the matter in private. If the Board President is not available, another officer may act as the representative of the Board.
- 4.1.3 The Board representative shall report on the discussion at a meeting of the Board of Trustees attended by the Trustee suspected of non-compliance. The Trustee suspected of non-compliance shall be given an opportunity to participate in the discussion. If the Board determines that non-compliance has occurred, the Board shall decide what action may be necessary to address the non-compliance.
- 4.1.4 If an alleged violation is deemed to be a criminal act, the Board President shall refer it to the proper authorities.

¹⁴ C.R.S. § 18-8-308(2)